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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,166

11/03/2003

John Wallace Kline

711-010US

3625

22897

7590

04/19/2006

DEMONT & BREYER, LLC  
SUITE 250  
100 COMMONS WAY  
HOLMDEL, NJ 07733

EXAMINER

WALK, SAMUEL J

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/700,166

Applicant(s)

KLIN ET AL

Examiner

Samuel J. Walk

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-16,20-22 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-16 is/are allowed.
- 6) ☒ Claim(s) 1,6,7,10,20-22 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 3,5, 8-9 and 11-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2612

**DETAILED ACTION**

***Status of Claims***

1. In the Amendment dated 01/25/2006, Claims 2, 4, 17-19 and 23-24 have been cancelled and Claim 27 has been added; therefore, Claims 1, 3, 5-16, 20-22 and 25-27 remain pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 20-22 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Horton (US 2004/0065247).

Regarding Claim 20, Horton discloses an unmanned underwater vehicle for tracking and homing in on submarines wherein claimed housing met by inherent housing; claimed coupling device met by corkscrew-like devices 36 and

Art Unit: 2612

magnets 38, see para. [0027-0028]; claimed transmitter met by RF beacon 52, see para. [0032]; claimed energy storage device met by batteries 29 and claimed generator met by motor 46, see para. [0031]. Horton further shows in Fig. 7 an first/anterior portion on the right of the figure and a propeller 25 which constitutes a second/posterior portion on the left and that the motor becomes a generator when water turns the propeller. Thus, the propeller, or the second/posterior portion, is moving independently from the anterior portion of the housing.

Regarding Claim 21, see above rejection in reference to Claim 20, specifically batteries 29 and transmitter 52.

Regarding Claim 22, Horton further discloses beacon 52 is an RF transmitter that notifies maritime rescue services by sending a coded signal relayed by a satellite to a ground station, see para. [0032]. It is inherent that the signal would have to travel through water in order to reach the satellite.

Regarding Claims 25-26, Horton further discloses detachment occurs at a speed and depth that would allow visual inspection of the tracked submarine which would inherently include when movement stopped.

Art Unit: 2612

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6-7, 10 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horton in view of Solomon (US 6842674).

Regarding Claim 1, Horton discloses an unmanned underwater vehicle for tracking and homing in on submarines wherein claimed housing met by inherent housing; claimed coupling device met by corkscrew-like devices 36 and magnets 38, see para. [0027-0028]; claimed transmitter met by RF beacon 52, see para. [0032]; claimed energy storage device met by batteries 29 and claimed generator met by motor 46, see para. [0031]. Horton does not disclose the housing having a shape of a water-dwelling organism. However, Solomon teaches of mobile robotic vehicles (MRVs) used in surveillance and reconnaissance wherein they are disguised as biological entities, such as fish, to maximize

Art Unit: 2612

camouflage and enhance the effects of surprise in surveillance, see Col. 4 lns 24-46 and Col. 8 lns 46-49.

Regarding Claim 6, claimed decoupling device met by detachment means (unlabeled), see para. [0035].

Regarding Claim 7, Horton further discloses detachment occurs at a speed and depth that would allow visual inspection of the tracked submarine which would obviously include when movement stopped.

Regarding Claim 10, Horton further shows in Fig. 7 an first/anterior portion on the right of the figure and a propeller 25 which constitutes a second/posterior portion on the left and that the motor becomes a generator when water turns the propeller. Thus, the propeller, or the second/posterior portion, is moving independently from the anterior portion of the housing.

Regarding Claim 27, see above rejections in reference to Claims 20 and 1.

***Allowable Subject Matter***

6. Claim 13-16 are allowed.

7. Claims 8-9 and 10-12 are objected to as being dependent upon a rejected base claim, but would be

Art Unit: 2612

allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: Claims 3, 5 and 13-16 appear to be allowable because prior art fails to show an underwater transmitting device in the shape of a remora. Claims 8-9 appear allowable because prior art fails to show an underwater device using a piezoelectric polymer generator. Claims 10-12 appear allowable because prior art fails to show the second portion moving back and forth as the apparatus moves through the water.

#### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel J. Walk whose telephone number is (571) 272-2960. The examiner can normally be reached on M-F: 8:00-5:30.

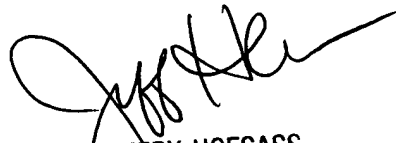
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for

Art Unit: 2612

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJW



JEFFERY HOFSSASS  
SUPERVISORY PATENT EXAMINER  
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